

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
COST PLUS COMMUNICATIONS, LLC,)
)
vs.) No. 08-0559
)
ILLINOIS BELL TELEPHONE COMPANY))
)
Verified complaint pursuant to)
220 ILCS 5/13-514 and request)
for expedited and emergency)
relief.)

Chicago, Illinois
October 2, 2008

Met pursuant to notice at 2:30 p.m.

BEFORE:
EVE MORAN, Administrative Law Judge.

APPEARANCES :

MR. RICHARD C. BALOUGH
53 West Jackson Boulevard, Suite 936
Chicago, Illinois
Appearing for the Petitioner;

MR. JAMES A. HUTTENHOWER
225 West Randolph Street, Suite 25-D
Chicago, Illinois 60606
(312) 727-1444
Appearing for the Respondent;

MR. MATTHEW L. HARVEY
160 North LaSalle Street, Suite C-800
Chicago, Illinois 60601
(312) 793-2877
Appearing for Staff of the ICC.

SULLIVAN REPORTING COMPANY, by
Steven T. Stefanik, CSR

I N D E X

Witnesses:

	Re-	Re-	By
<u>Direct</u>	<u>Cross</u>	<u>direct</u>	<u>cross</u>
			<u>Examiner</u>

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None .

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E X H I B I T S

Number

For Identification

In Evidence

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None so marked.

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1 JUDGE MORAN: Pursuant to the direction of the
2 Illinois Commerce Commission, I call Docket
3 08-0559. This is Cost Plus Communications, LLC,
4 versus Illinois Bell Telephone Company. It is a
5 verified complaint pursuant to Section 13-514 of
6 the Public Utilities Act and includes a request for
7 expedited and emergency relief.

8 May I have the appearances for the
9 record, please.

10 MR. BALOUGH: Yes. Richard C. Balough, 53 West
11 Jackson Boulevard, Suite 936, Chicago, Illinois
12 60604, appearing on behalf of Cost Plus
13 Communications, LLC.

14 MR. HUTTENHOWER: James Huttenhower,
15 H-u-t-t-e-n-h-o-w-e-r, appearing on behalf of
16 Illinois Bell, 225 West Randolph Street,
17 Suite 25-D, Chicago, Illinois 60606.

18 MR. HARVEY: For the Staff of the Illinois
19 Commerce Commission, Matthew L. Harvey, 160 North
20 LaSalle Street, Suite C-800, Chicago, Illinois
21 60601.

22 JUDGE MORAN: Thank you.

1 Let the record reflect that there are no
2 other appearances.

3 We're here in an emergency situation.
4 There's the verified complaint by Cost Plus
5 Communications asking for expedited and emergency
6 relief that was filed yesterday, as I understand.

7 MR. BALOUGH: That's correct, your Honor.

8 JUDGE MORAN: And then today, we have filed here
9 a response of AT&T Illinois to the request for
10 expedited an emergency relief.

11 The complaint is -- I think merged
12 together with the request for emergency relief; am
13 I correct.

14 MR. BALOUGH: That's correct.

15 JUDGE MORAN: They're not two stand-alone
16 documents?

17 MR. BALOUGH: That's correct.

18 JUDGE MORAN: Okay. I'm sorry? No one said
19 anything. Okay. Good.

20 The big concern here is although the
21 complaint proceeds under 13-514, is that the
22 procedures for the complaints in terms of

1 particularly emergency relief appear to go under
2 Section 13-515.

3 I've read through these documents and I
4 see a lot of problems with this request for
5 emergency relief as pointed out by AT&T's response.

6 Most notably, there's that requirement
7 of proper notice and a proper attempt to reach
8 resolution between the parties which then has to be
9 noticed to the Commission. I don't see that.

10 The other problem is there's a question
11 of the complaint seems to be money driven in the
12 sense that bills have not been paid and bills have
13 been disputed. But aside from that, there are
14 monies not being paid for bills that are not
15 disputed.

16 There's also a problem with the
17 complaint itself in that certain matters that are
18 included in the complaint may be matters over which
19 the Commission has no jurisdiction.

20 Have I stated everything correctly so
21 far?

22 MR. HUTTENHOWER: I believe you stated the types

1 of arguments that Illinois Bell raised, yes.

2 JUDGE MORAN: Okay.

3 MR. BALOUGH: Your Honor, and by agreeing these
4 that those are the arguments raised, it doesn't
5 necessarily mean that I agree, for example, with
6 what has been paid and what hasn't been paid.

7 JUDGE MORAN: Okay.

8 MR. BALOUGH: Just so the record's clear that...

9 JUDGE MORAN: Okay.

10 MR. BALOUGH: But what you stated is what has
11 been --

12 JUDGE MORAN: What has been alleged.

13 MR. BALOUGH: Yes.

14 JUDGE MORAN: Okay. Let's talk about that
15 money.

16 How much -- I mean, does your client owe
17 money that is not being disputed in terms of this
18 complaint?

19 MR. BALOUGH: To my knowledge, in talking to the
20 client, no. We paid -- it's my understanding they
21 paid the disputed amounts -- the nondisputed
22 amounts.

1 And, for example, the bill that we
2 attached -- well, the termination notice that AT&T
3 sent to us --

4 JUDGE MORAN: Hm-hmm.

5 MR. BALOUGH: -- has an amount that's lower than
6 what they have in their affidavit as what we owe.

7 So the problem is that I don't have a
8 full understanding of where they're getting their
9 number from that's much higher than what they
10 sent in their termination notice.

11 JUDGE MORAN: Okay. There's a number of ways
12 that we can proceed on this and I'd like to hear
13 from the parties.

14 MR. HARVEY: Your Honor, maybe it would be
15 helpful if we went briefly off the record on this.

16 JUDGE MORAN: That would be great.

17 In fact, that's one of the procedures
18 that's allowed for under the statute is some sort
19 of mediation or discussion among the parties.

20 Would everybody be willing to do that?

21 MR. HUTTENHOWER: Sure.

22 MR. BALOUGH: Yes, your Honor.

1 JUDGE MORAN: Okay. I love it.

2 (Discussion off the record.)

3 JUDGE MORAN: The parties will be entering into

4 discussions among themselves.

5 They will also work together to get me a

6 proposed draft order that will be entered tomorrow,

7 once I receive and review it, and then we will be

8 continuing this matter to October 15, 2008 at 1:30

9 p.m. by agreement.

10 Anything else we need to put on the

11 record?

12 MR. HUTTENHOWER: No, your Honor.

13 MR. BALOUGH: No, your Honor.

14 MR. HARVEY: Not from Staff, your Honor.

15 JUDGE MORAN: No. Okay.

16 Thank you so much.

17 MR. HARVEY: Thank you very much, your Honor.

18 MR. BALOUGH: Thank you.

19 (Whereupon, said hearing was

20 continued to October 15, 2008

21 at 1:30 p.m.)

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